

Hon. John C. Coughenour

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WENDY JENDRYSIK,
Plaintiff,

v.

RECEIVABLES PERFORMANCE
MANAGEMENT, LLC
Defendant.

Case No. 2:13-cv-00559

**DECLARATION OF ANDREW D.
SHAHER IN OPPOSITION TO
MOTION TO DEEM FACTS
ADMITTED**

I, Andrew D. Shafer, under penalty of perjury pursuant to 28 U.S.C. §1746 as follows:

1. I am an attorney licensed to practice law in Washington State and before this court. I base this declaration on my personal knowledge.

2. As RPM's registered agent, I was served with the summons and complaint in this case on April 10, 2013. I appeared the next day and answered the complaint on April 30, 2013, before Plaintiff had filed and served her Amended Complaint.¹

3. As I read Fed.R.Civ.P 15(a), Plaintiff's attempt to amend her complaint came too late. She did not file it within 21 days of serving the complaint. The Complaint was

¹ The Answer is Dkt # 9; The Amended Complaint is Dkt # 12.

1 served on April 10. She filed the Amended Complaint on May 21. Fed.R.Civ.P 15(a)(1)(B)
2 only allows the Amended Complaint to be filed without leave of court within 21 days after the
3 filing of a pleading to which a responsive pleading is required. Here, Plaintiff was not
4 required to file a response to RPM's Answer.

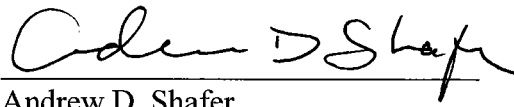
5 4. Because I did not believe that Plaintiff had the right to file her Amended
6 Complaint without either RPM's consent or leave of court, RPM did not respond to the
7 pleading within 21 days.

8 5. On Friday, August 2, Plaintiff served her first discovery. At that time, I again
9 took a look at the Amended Complaint and decided to prepare an answer that date. At 12:26
10 pm on Friday, August 2, I sent an email to Mark Case, RPM's general counsel, with a draft
11 Answer to the Amended Complaint. A redacted copy of that E-mail is attached as Exhibit 1 to
12 this declaration.

13 6. I did not lodge the Amended Answer and Affirmative Defenses on Friday
14 because I did not receive Mr. Case's authorization to do so by the time I left the office that
15 day. RPM filed the Answer and Affirmative Defenses to the Amended Complaint on
16 Monday, August 5, approximately 1-1/2 hours after we received the subject motion.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed on August 6, 2013 at Seattle, Washington.

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21 
22 Andrew D. Shafer

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25 DECLARATION OF ANDREW D. SHAFER
IN OPPOSITION TO PLAINTIFF'S
Fed.R.Civ.P 8(b) MOTION - 2
[CASE NO. 2:13-cv-00559]

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